



Appeal Decision

Site visit made on 23 July 2024

by N Bromley BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2024

Appeal Ref: APP/P4605/W/24/3339708

Opposite the Shell Garage SW, Stratford Road, Birmingham B11 4AS

Easting: 409446, Northing: 283466

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Cornerstone against the decision of Birmingham City Council.
 - The application Ref is 2023/04810/PA.
 - The development proposed is Proposed Base Station telecommunications installation. Proposed installation of 17.5m High Hutchinson Engineering Orion SW Pole on new T9 root foundation together with, 6No. Antennas, 1No. GPS Module, Yorkshire Cabinets and associated ancillary works.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the siting and appearance of a Proposed Base Station telecommunications installation. Proposed installation of 17.5m High Hutchinson Engineering Orion SW Pole on new T9 root foundation together with, 6No. Antennas, 1No. GPS Module, Yorkshire Cabinets and associated ancillary works opposite the Shell Garage SW, Stratford Road, Birmingham, B11 4AS, Easting: 409446, Northing: 283466, in accordance with the terms of the application Ref 2023/04810/PA, and the plans submitted with it.

Procedural Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.

Planning Policy

3. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard be had to the development plan. I have had regard to the policies of the development plan, any related guidance, and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area and, if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

Siting and Appearance

5. The appeal site is located on a wide pavement alongside Stratford Road, which has a mixed character of commercial and residential properties, including a petrol station forecourt opposite. The road is busy with a prevalence of street furniture within the street scene, including tall street lighting columns on both sides of the road, traffic signs and raised planters.
6. This part of the road is also dominated by Sparkhill Park (the park), and the proposal would be sited next to the entrance. The park includes a sizeable multipurpose games area, with a number of tall lighting columns. As such, vertical poles are not an uncommon feature within the locality.
7. While the park has an open frontage, it also has an abundance of trees close to the boundary with the road, some being large, mature trees. Therefore, the proposal would be viewed against the backdrop of the park and the trees.
8. At a height of 17.5 metres, with a large headframe, the proposed monopole would be noticeably taller than many of the existing buildings, trees, and street lighting columns. However, within the context of the busy road, it would not be an uncommon feature in the street scene. The proposed equipment would also not result in an unacceptable amount of visual clutter on the spacious pavement, along this part of the road.
9. Furthermore, the proposal would benefit from screening, particularly during the summer months, from mature street trees along the road. As a result, longer distance views of the proposed monopole and equipment cabinets would be heavily restricted along the road and from wider views within the surrounding area. Similarly, views of the proposal from the park would also be limited due to the abundance of trees. As such there would only be occasional glimpses of the proposal from within the park. Consequently, the visual presence of the proposal would be restricted to views from within the immediate street scene.
10. Even though the proposal would be located opposite commercial properties, including a large petrol station, the proposed monopole, due to its height, bulk, and functional appearance, would be a dominant structure when viewed from close quarters. The proposed equipment cabinets would also contribute to the amount of development on the pavement, which would result in some visual harm within the immediate locality also. Therefore, there would be moderate harm to the character and appearance of the area.
11. My attention has been drawn to another approved telecommunications mast along Stratford Road. I am told that the approved mast is 25 metres from the appeal site. However, the full details of the approved mast, its precise location, height, and appearance have not been provided. Nonetheless, while I acknowledge that two masts in close proximity to one another would have a visual presence along the road, trees would screen views of the structures from

the wider area. I am also satisfied that the cumulative effect of two masts, in close proximity, would not result in a proliferation of masts along this busy road, particularly as they would be set apart from each other, and views of the two structures would be interrupted by the street trees.

12. In conclusion, for the reasons given, the proposal, by reason of the siting and appearance, would result in moderate harm to the character and appearance of the area. Therefore, insofar as they are a material consideration, the proposal would be contrary to Policy PG3 of the Birmingham Development Plan, Policies DM2 and DM16 of the Development Management in Birmingham Development Plan Document, the guidance within the Birmingham Design Guide SPD, which seek to achieve well designed places, and paragraph 119 of the Framework which highlights that telecommunications sites should be sympathetically designed.

Alternative sites

13. Paragraph 118 of the Framework states that planning decisions should support the expansion of electronic communications networks, including next generation mobile technology, such as 5G. Accordingly, given the moderate harm to the character and appearance of the area, a balance must be struck, and consideration must be given to the need for the installation to be sited as proposed taking into account suitable alternatives.
14. Paragraph 121 of the Framework explains that applications for electronic communications, including prior approval, should be supported with the necessary evidence to justify the proposed development. The submission details how the proposal is required to ensure 5G coverage is available in the Sparkhill area.
15. The appellant has undertaken a search for alternative sites within the constrained cell search area, applying a sequential site selection process including consideration of site sharing, the use of existing structures, rooftops of buildings and a detailed analysis of alternative ground sites. A total of 24 alternative sites were discounted for a number of planning, operational and structural reasons. This included existing rooftops and telecommunications structures. For example, sites were discounted for reasons including, construction and maintenance issues; buildings being too low; proximity to trees and ICNIRP compliance issues; physical obstruction to accesses; proximity to underground services or overhead power lines; location next to a bus stop; insufficient space within the site; the footway being too narrow; location in relation to surrounding residential properties; the presence of solar panels on the roof, the inability to offer structural integrity and an inability to provide viable coverage.
16. From my on-site observations, and the substantive evidence before me, I have no reason to doubt the legitimacy of the reasons provided as to why the alternatives were discounted in favour of the appeal site and there is no counter evidence before me which would lead me to come to a different conclusion. Furthermore, it was not apparent that there were any obvious better alternative locations, including the swimming pool building suggested by interested parties, within the search parameters before me.

17. The lack of better or alternative options to deliver improved coverage and capacity as needed in this area is a consideration which weighs strongly in favour of the development.

Other Matters

18. A number of other concerns have been raised by interested parties. In particular, information has been submitted in respect of concerns raised about various potential effects on health of humans, including anxiety, and the health of nearby trees. Notably due to the proposed monopole's proximity to residential properties, places of education, a library, a sports centre, the park, shops, bus routes and trees. However, the appellant has provided a certificate to confirm that the proposal has been designed to comply with the guidelines published by the International Commission on Non-Ionizing Radiation Protection (ICNIRP). In these circumstances, the Framework advises that health safeguards are not something which a decision-maker should determine. No sufficiently authoritative evidence has been provided to indicate that the ICNIRP guidelines would not be complied with or that a departure from national policy would be justified.
19. I also acknowledge the concern that has been expressed regarding the implications of the proposal on highway safety, and to pedestrians. However, no objections have been received from the Local Highways Authority. Given the position of the site relative to road junctions and its position on a wide pavement, and in the absence of any firm evidence to the contrary, I have no reason to conclude that the proposal would result in highway safety due to any impediment to visibility or pedestrian movement.
20. Whilst the proposal is located near to existing trees, it is sited away from the trees and on a slightly lower ground level. The Council raised no objections in this regard, and from my observations on site and the evidence before me, I see no reason to conclude otherwise.
21. Likewise, I have seen no substantive evidence that any significant disruption, noise, or pollution would arise during or after construction. In any event, construction would be for a short duration only.
22. Although concerns have been raised about the impact of the proposal on property values, such matters fall beyond the scope of the prior approval process to which this appeal relates.

Planning Balance

23. Paragraph 118 of the Framework informs that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. It further advises that planning decisions should support the expansion of electronic communications networks including next generation technology (such as 5G).
24. I have found that the proposal would result in moderate harm to the character and appearance of the area. However, the proposal would have significant benefits in terms of providing 5G coverage in the area, as specifically supported by paragraph 118 of the Framework. This, taken together with the lack of any identified suitable alternative sites, is sufficient to outweigh the moderate harm that I have identified.

Conditions

25. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed and prior approval should be granted.

N Bromley

INSPECTOR